**THE HIGH COURT OF UTTARANCHAL AT NAINITAL.**

Writ Petition (M/S) No. 112 of 2006

Harish Chandra S/O late Sri Khem Ram,
R/O Bachinagar No. 1, Tehsil Haldwani,
District Nainital, at present , C/O Lala Ram Prasad,
Halwai, Kamal Talkies Chauraha, Moh Baradari,
Moradabad, U.P. …. **Petitioner.**

***Versus***

1. Sri Puram Singh, S/O Sri Uchhap Singh
2. Sri Narayan Singh S/O Sri Uchhap Singh,
   Both residents of Bachinagar No.1, Tehsil Haldwani,
   District Nainital.
3. Sri Bhim Singh Bisht S/O Sri Ganga Singh Bisht
   R/O Ashirvad Bhawan, Damua Dhunga, Tehsil
   Haldwani, District Nainital,
4. Gram Sabha Bachinagar No. 1, through its Gram Pradhan,
   Tehsil Haldwani, District Nainital,
5. State of Uttaranchal through Collector Nainital.

… **Respondents.**

**Sri Dharam Veer, learned senior counsel, assisted by Sri B.S. Parihar, Adv., for the petitioner.**
**Sri Sudhir Singh, learned counsel for the respondents no. 1 to 3.**
**Sri Nand Prasad, learned Standing Counsel for the respondent no. 5.**

**Dated February 20, 2006.**

Heard.

Learned counsel for the petitioner filed Supplementary Affidavit, which is taken on record.

The petitioner has filed this writ petition for setting aside the order dated 18-01-2006 passed by the learned Commissioner, Kumaun Division Nainital in Revenue Revision No. 64 of 2005-06 Puran Singh and others Vs. Harish Chandra and others.

The only ground argued by the petitioner is that while deciding the Revision, the learned Commissioner did not hear the petitioner, though he was the caveater before the court of learned Commissioner. It was imperative on the part of the commissioner before setting aside the order impugned in Revision No. 64 of

2005-06 to hear the petitioner, because the application under Order 9, Rule 13 C.P.C. was moved by the petitioner before the Assistant Collector and the application was allowed. The petitioner was the aggrieved party before the Commissioner.

It reveals from the order impugned that the petitioner was not heard by the learned Commissioner while deciding the said Revision. The order is ex-parte against the petitioner.

In the facts and circumstances of the case, it is in the interest of justice to set aside the order impugned dated 18-01-2006.

Accordingly, the writ petition is allowed and the impugned order dated 18-01-2006 passed by the Commissioner in Revision No. 64 of 2005-06 Puran Singh and another Vs. Harish Chandra and others is hereby set aside and the learned Commissioner is directed to decide the revision afresh after hearing all the parties on merit. The parties shall appear before the Commissioner on 08-03-2006.

RCP **(B.S. Verma, J.)**